

Notice of Allowability

Application No.

10/550,039

Examiner

Yong Chu

Applicant(s)

GRAVESTOCK ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/15/2006.
2. ☒ The allowed claim(s) is/are 1,4-7,9,12 and 14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 12/20/2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

Claims 2, 3, 8, 10, and 11 are cancelled by amendment filed on 10 August 2006. Claim 11 is cancelled by amendment filed on 15 August 2006. Claims 1, 7, and 13 are amended by amendment filed on 10 August 2006. Claims 1, 6, and 7 are amended by amendment filed on 15 August 2006. Therefore, claims 1, 4-7, 9, 12, and 14 are currently pending in the instant application.

Information Disclosure Statement

Applicant's Information Disclosure Statement, filed on 20 December 2005, has been considered. Please refer to Applicant's copies of the PTO-1449 submitted herewith.

Priority

This application is a 371 of PCT/GB04/01132, filed on 16 March 2004. Applicants claim the benefit of for U. K. Patent Application 030657.5 filed on 20 March 2003, under 35 U.S.C. §119(a-d).

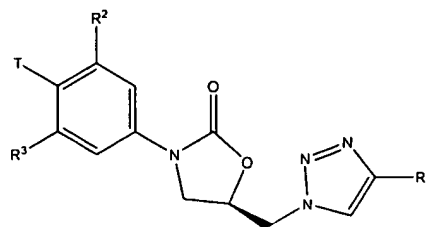
Response to Amendment

The Supplementary Amendment by Applicants' representative John Haberman dated on 15 August 2006 has been entered.

Reasons for Allowance

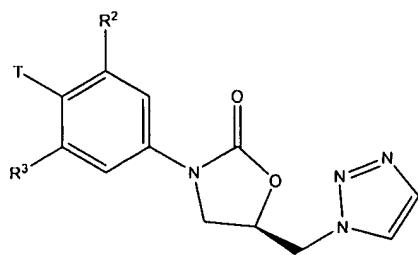
The present invention is directed to a compound, a pharmaceutical composition

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containing a compound of claim 1 and the methods to make and to use the compounds or composition for producing an antibacterial effect in a warm blood animal. The closest prior art of record is co-pending U.S. Patent Application 10/550,038 (Gravestock et al.) having the same assignee.

U.S. Patent Applications 10/550,038 discloses a compound of general structure



, which contains claims provisional Double Patenting over the claims in the instant application. However, the current application has broader base claims with the same filing date, and therefore is allowable with no need for filing Terminal Disclaimer against the claims in U.S. Patent Applications 10/550,038.

Therefore, claims 1, 4-7, 9, 12, and 14 are allowable.

Telephone Inquiry

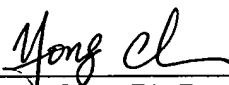
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Chu whose telephone number is 571-272-5759. The examiner can normally be reached on 7:00 am - 3:30 pm EST.

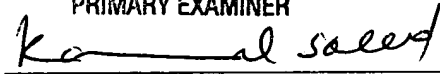
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on 571-272-0699. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Yong Chu, Ph.D.
Patent Examiner
Art Unit 1626

KAMAL A. SAEED, PH.D.
PRIMARY EXAMINER

for Joseph K. McKane
Supervisory Patent Examiner
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